

STATEMENT OF FRED V. KROEGER,
PRESIDENT, SOUTHWESTERN WATER CONSERVATION DISTRICT
BEFORE THE JOINT HEARING
OF THE SENATE COMMITTEE ON INDIAN AFFAIRS
AND THE ENERGY AND NATURAL RESOURCES SUBCOMMITTEE
ON WATER AND POWER

UNITED STATES SENATE
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Energy and Natural Resources Committee Room
366 Dirkson Building

My name is Fred Kroeger. I am President of the Board of Directors of the Southwestern Water Conservation District of Colorado and a member of the Board of Directors of the Animas-La Plata Water Conservancy District. I was a member of the Colorado Water Conservation Board for 21 years. I have appeared before Congressional Committees for more than thirty years to seek support for the construction of the Animas-La Plata Water Resource Development Project.

I am here today to urge your support for S. 1771, the Colorado Ute Settlement Act Amendments of 1998. This legislation will settle the reserved water rights claims of the two Colorado Ute Indian Tribes in southwestern Colorado once and for all. The settlement legislation represents the final compromise in our decades-long effort to resolve the Tribes' claims by negotiation, instead of litigation.

The history of the Animas-La Plata Project is a history of compromise. Together, the two Colorado Ute Tribes and non-Indian water users have strived to achieve a resolution of the Tribes' reserved water rights claims in a positive manner for all in the community. The farmers and ranchers

whom I represent here today have compromised more and given up more than any other group in their efforts to solve the Tribes' claims. The cooperation between the two Indian tribes and the non-Indian water users in the San Juan Basin for more than three decades speaks to the mutual respect of those friends and neighbors.

Two outstanding examples of the spirit of cooperation to achieve a win-win situation are the Animas-La Plata Project cost-sharing agreement of 1985 and the 1986 tribal water rights settlement agreement. In the cost-sharing agreement, the State of Colorado and local water users committed more than \$60 million toward the resolution of the Ute Indian water claims. The key ingredient of the 1986 Settlement Agreement is new water storage: the Ridges Basin Reservoir of the Animas-La Plata Project. If the Ute Indian Tribes were to receive the water to which they are legally entitled without the construction of new storage, non-Indian farmers who have been utilizing that water for more than 95 years would be deprived of their water supply and the non-Indian agricultural economy in southwestern Colorado and northwestern New Mexico would be destroyed. The Tribes and their neighbors are solidly committed to a solution which does not rob Peter to pay Paul. S. 1771 is that solution despite the sacrifices it requires.

Project supporters thought that with the passage of the 1988 Colorado Ute Indian Water Rights Settlement Act, Project construction would be forthcoming. However, ten years after passage of that landmark legislation, which was widely recognized as a model for the settlement of Indian water rights claims, the Project is still not under construction. Project opponents, without a personal stake in the settlement of the Tribes' rights, have delayed the construction of the Animas-La Plata Project.

Those delays drove up the cost of the original project to the point that the water users and the Tribes were required to make further compromises and sacrifices.

We are before you now with the results of those compromises and sacrifices, about which nobody is happy, but which everyone recognizes are necessary for securing the new stored water so vital for all the water users in the San Juan Basin. Instead of a project to provide 150,000 acre-feet of water depletions in our area, we now have a project which complies with the Endangered Species Act and limits our depletions of water to 57,100 acre-feet of water per year. To divide that limited water supply among the beneficiaries of the Animas-La Plata Project was a difficult, heart-wrenching process.

Under the compromise before you, the two Ute Indian Tribes will not receive all of the water they were promised in 1988, but the cost to the Tribes will be limited to the cost of Project operations and maintenance. The non-Indian farmers and ranchers will not receive the benefits they were first promised in 1956, subsequently in 1968, and again in 1988. The non-Indian farmers and ranchers have agreed to relinquish all of the irrigation water and facilities which for so many years were a central feature of the Animas-La Plata Project. While irrigation may not now be popular, it is vital. Nevertheless, the non-Indian ranchers and farmers recognized that under the current political atmosphere it would not be possible to proceed with the Animas-La Plata Project as approved in 1988.

Then why do the non-Indian ranchers and farmers support the proposed legislation? First and foremost, the two Colorado Ute Tribes have agreed that the modified Animas-La Plata Project will

settle all of their reserved water rights claims in the San Juan Basin. This removes any remaining threat to the non-Indian water users in our area; i.e. the proposed legislation settles the Tribes' claims in a way that avoids the Tribes taking any water away from their non-Indian friends and neighbors. Secondly, the legislation will provide a much needed domestic supply of water for the growing communities in Colorado, including the City of Durango, and communities in northwestern New Mexico. Finally, the legislation respects the federal government's trust obligation to the Tribes.

I anticipated that the opponents of the Animas-La Plata Project would throw up their hands and declare victory over the scaled-back Animas-La Plata Project. Despite the major concessions agreed to by proponents of the Animas-La Plata Project, that is not the case. The opponents would have the federal government continue to conduct repetitious environmental studies, studies which have already conservatively cost tens of millions of dollars. The opponents, claiming to be friends of the Ute Indian Tribes, have threatened to litigate the Animas-La Plata Project for the next forty years.

The proponents of the Animas-La Plata Project have worked long and hard to avoid the bitter and divisive court action that will result unless additional water storage is available for the Ute Indian tribes and our communities. The Project has undergone agonizing environmental examination and repeated consultations under the Endangered Species Act. Despite all the delays and modifications, the Project continues to have broad-based bipartisan support from local and state officials. Your passage of this legislation will enable us to proceed with construction of the Project and to finally settle the Indian water rights claims. Construction of the Project is the only fair and equitable way to settle the Tribes' claims without ripping apart the cultural and economic fabric of our region.